

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CURTIS ANTHONY CLARK, # 202626,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 2:19cv806-WHA-SMD
	)	[WO]
WALTER MYERS, <i>et al.</i> ,	)	
	)	
Respondents.	)	

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

Curtis Anthony Clark (“Clark”), a state inmate at the Easterling Correctional Facility in Clio, Alabama, initiated this action by filing a petition for writ of habeas corpus. (Doc. 1). In his petition, Clark challenges the legality of his sentence as a habitual felony offender imposed by the Mobile County Circuit Court upon his conviction for third-degree robbery.

**DISCUSSION**

Because Clark challenges the state court judgment under which he is incarcerated, the relief he seeks is proper through a petition for writ of habeas corpus under 28 U.S.C. § 2254. *See, e.g., Cook v. Baker*, 139 F. App’x 167, 168 (11th Cir. 2005). Title 28 U.S.C. § 2241(d) allows Clark to bring a § 2254 petition in either (a) the federal district court for the district wherein he is in custody (the Middle District of Alabama, where the Easterling Correctional Facility is located), or (b) the federal district court for the district within which the state court that convicted and sentenced him was held (the Southern District of Alabama, where the Mobile County Circuit Court is located). Section 2241(d) provides

that this court “in the exercise of its discretion and in furtherance of justice,” may transfer a petitioner’s § 2254 petition to “the district court for the district within which the State court was held which convicted and sentenced [the petitioner].” 28 U.S.C. § 2241(d).

The matters complained of by Clark stem from a conviction and sentence entered by the Mobile County Circuit Court. The records related to these matters are located in Mobile County. Therefore, this court finds that the furtherance of justice and judicial economy will be best served by transferring this case to the United States District Court for the Southern District of Alabama for review and disposition.<sup>1</sup>

### CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be TRANSFERRED to the United States District Court for the Southern District of Alabama under 28 U.S.C. § 2241(d).

It is further

ORDERED that the parties shall file any objections to this Recommendation **on or before December 17, 2019**. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made; frivolous, conclusive, or general objections will not be considered. Failure to file written objections to the Magistrate Judge’s findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) shall bar a party from a *de novo* determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of

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<sup>1</sup> A decision on Clark’s application for leave to proceed *in forma pauperis* (Doc. 2) is reserved for ruling by the United States District Court for the Southern District of Alabama.

the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1. *See Stein v. Lanning Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

DONE this 3rd day of December, 2019.

/s/ Stephen M. Doyle  
STEPHEN M. DOYLE  
UNITED STATES MAGISTRATE JUDGE